
HOUSE BILL No. 1163

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-7-19.

Synopsis: Expungement of records of certain convictions. Provides that if postconviction DNA testing is favorable to a convicted person and if the court orders the release of the person, the court shall: (1) order that certain agencies and persons shall not release records regarding the person; (2) order any central repositories for criminal history to remove and destroy records concerning the person; (3) order any law enforcement agencies to remove and destroy records concerning the person; (4) seal any court records created as a result of allegations that the person committed a crime or delinquent act; and (5) notify the clerk of the supreme court to seal any records if an appeal was taken.

Effective: July 1, 2010.

Tincher, Kersey

January 7, 2010, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1163

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-38-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. **(a)** Notwithstanding any law that would bar a trial as untimely, if the results of postconviction DNA testing and analysis are favorable to the person who was convicted of the offense, the court shall order any of the following:

(1) Upon motion of the prosecuting attorney and good cause shown, order retesting of the identified biological material and stay the petitioner's motion for a new trial pending the results of the DNA retesting.

(2) Upon joint petition of the prosecuting attorney and the petitioner, order the release of the person.

(3) Order a new trial or any other relief as may be appropriate under Indiana law or court rule.

(b) If the person is ordered to be released under subsection (a)(2), the court shall do the following:

(1) Order:



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- 1 (A) the department of correction; and
- 2 (B) each:
 - 3 (i) law enforcement agency; and
 - 4 (ii) other person;
- 5 who incarcerated, provided treatment for, or provided
- 6 other services for the person under an order of the court;
- 7 to prohibit the release of the person's records or information
- 8 in the person's records to anyone without a court order.
- 9 (2) Order any:
 - 10 (A) state;
 - 11 (B) regional; or
 - 12 (C) local;
- 13 central repository for criminal history information to remove
- 14 and destroy the person's records.
- 15 (3) Order any law enforcement agency to remove and destroy
- 16 all records, including juvenile records, created as a result of
- 17 allegations that the person committed a misdemeanor, felony,
- 18 or delinquent act.
- 19 (4) Seal any court records created as a result of allegations
- 20 that the person committed:
 - 21 (A) a misdemeanor;
 - 22 (B) a felony; or
 - 23 (C) a delinquent act that would be a crime if committed by
 - 24 an adult.
- 25 (5) Notify the clerk of the supreme court to seal any records
- 26 in the clerk's possession concerning:
 - 27 (A) the allegation that the person committed a
 - 28 misdemeanor, felony, or delinquent act; or
 - 29 (B) any proceeding related to the allegation;
 - 30 if an appeal was taken.

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